

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MONTANA, BILLINGS DIVISION**

Reciprocity Industries, LLC,

Plaintiff,

-vs-

Century Indemnity Company,

Defendant.

Case No. 21-00011

**CENTURY’S BRIEF IN SUPPORT OF ITS EMERGENCY MOTION FOR
ENTRY OF AN ORDER SHORTENING THE NOTICE AND OBJECTION
PERIOD FOR CENTURY’S MOTION TO TRANSFER RECIPROCITY
INDUSTRIES, LLC’S MOTION TO QUASH SUBPOENA TO THE
BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE**

Century Indemnity Company, as successor to CCI Insurance Company, as successor to Insurance Company of North America (“Century”) respectfully requests that the Court enter an order shortening notice of its motion under Rule 45(f) of the Federal Rules of Civil Procedure to transfer Reciprocity Industries, LLC’s (“Reciprocity”) motion to quash Century’s subpoena (“Subpoena”) to the United States Bankruptcy Court for the District of Delaware (“Delaware Court”), where the Boy Scouts of America bankruptcy (“Boy Scouts Bankruptcy”) is pending (the “Motion to Transfer”). In the alternative, Century requests that this Court expedite a hearing and ruling on Reciprocity’s motion to quash.

The extraordinarily short schedule in the massive Boy Scouts Bankruptcy pending in the Delaware Court drives the need for this Court to shorten notice and

hear the underlying Motion to Transfer expeditiously. Recognizing the time and financial constraints placed on the Boy Scouts, a non-profit, the Honorable Laurie Silverstein, the Chief Judge of that Court, has compressed what would normally be years of litigation into approximately four months.¹ That Order required written discovery to be served by October 8, 2021, with document production substantially completed by November 5, 2021. Deposition of fact witnesses must be completed by December 1, 2021. There is precious little time for any follow-up discovery.

The Delaware Court issued a ruling on September 8, 2021 authorizing the sort of discovery at issue here.² Century served its subpoena just days later, on September 14, with an amended subpoena three days later. Bankruptcy counsel for Century has engaged with counsel for Reciprocity to resolve the dispute without court intervention. When it became clear that this would not be possible, Century began engaging with Montana firms to retain local counsel. Given the time needed to obtain local counsel, resolve conflicts, and obtain client approval, counsel for Reciprocity agreed to allow Century extra time to respond to Reciprocity's motion to quash,³ which this Court so-ordered.⁴

¹ See November 15, 2021 Declaration of Salvatore J. Cocchiaro, Ex. 12; (Del. Bankr. 20-10343, Oct. 8, 2021 Scheduling Order, D.I. 6528).

² See Cocchiaro Decl., Ex. 11 (Del. Bankr. 20-10343, Sept. 9, 2021 Discovery Order, D.I. 6184).

³ D.I. 3.

⁴ D.I. 4.

Since Century has retained Montana counsel, the Debtors in the Boy Scouts Bankruptcy have filed an emergency motion with respect to issues that overlap significantly with those in the Subpoena.⁵ The November 10, 2021 Emergency Motion was based on the conduct of Timothy Kosnoff—co-founder of the Abused in Scouting movement along with Andrew Van Arsdale, owner and principal of Reciprocity, to whom the Subpoena was directed. The Emergency Motion concerns the dissemination of a letter from Mr. Kosnoff urging claimants to vote to reject the current plan of reorganization, directly at odds with the advice of Mr. Van Arsdale, his co-counsel. During the second of three scheduled hearings on the Emergency Hearing, the Court held that it properly exercises personal jurisdiction over Mr. Kosnoff in Delaware and suggested that Century move to transfer discovery disputes with Mr. Kosnoff to the Delaware Court.⁶ The same considerations apply to Mr. Van Arsdale, and have equal force to Reciprocity in light of the overlapping issues with respect to solicitation. Accordingly, Century urges that this matter be resolved as quickly as possible so that this discovery dispute does not slow down or otherwise interfere with the Boy Scouts Bankruptcy.

⁵ See Cocchiario Decl., Ex. 3 (Del. Bankr. 20-10343, D.I. 7118; 7119).

⁶ See Cocchiario Decl., Ex. 17 (Del. Bankr. 20-10343, Nov. 12, 2021 Hr’g Tr.) at 60:10-21.

CONCLUSION

Century respectfully requests that the Court enter an order shortening notice of its Motion to Transfer so that it may be presented and heard at the Court's earliest convenience.

Dated: November 15, 2021

Respectfully Submitted,

By: /s/ Robert C. Griffin

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(d)(2)(E), I certify *Century's Brief in Support of Its Emergency Motion for Entry of an Order Shortening the Notice and Objection Period for Century's Motion to Transfer Reciprocity Industries, LLC's Motion To Quash Subpoena To The Bankruptcy Court For The District Of Delaware* is printed with proportionately spaced Times New Roman text typeface 14 points; is double-spaced; and the word count, calculated by Microsoft Word, is 649 words long, excluding the Caption, Table of Contents, Table of Authorities, Exhibit Index (*see* Cocchiaro Declaration), and this Certificate of Compliance.

DATED this 15th day of November, 2021.

CROWLEY FLECK PLLP
By /s/ Robert C. Griffin
Matthew M. Hibbs
Robert C. Griffin